

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

VON KING, DANIELLE JOHNSON, *
GERELINE THOMPSON, *
CHELSEA SHAW, AND JANE/JOHN *
DOE 1-9, *

Plaintiffs, on behalf of *
themselves and all others similarly *
situated, *

v. *

Case No.:

STATE OF GEORGIA, *
GEORGIA DEPARTMENT OF LABOR, *
and COMMISSIONER MARK BUTLER, *
in his official capacity, *

Defendants. *

DISTRICT COURT NOTICE OF REMOVAL

**TO: The Judges of the United States District Court for the Northern
District of Georgia, Atlanta Division**

COME NOW the State of Georgia; the Georgia Department of Labor; and
Commissioner Mark Butler, in his official capacity, who are Defendants in the
above-referenced action, by and through their counsel of record, the Attorney
General of the State of Georgia, and pursuant to 28 U.S.C. §§ 1441 and 1446 and

within the time prescribed by law, file this Notice of Removal. The State of Georgia, the Georgia Department of Labor, and Commissioner Mark Butler in his official capacity (“Defendants”) file this notice subject to and without waiving any defenses available to it under state and federal law. Defendants respectfully show the Court as follows:

1.

On June 17, 2021, Plaintiffs filed a civil action against the Defendants in the Superior Court of Fulton County, State of Georgia, said action being designated as:

VON KING, DANIELLE JOHNSON, GERELINE THOMPSON, CHELSEA SHAW, and JANE/JOHN DOE 1-9, Plaintiffs, on behalf of themselves and all others similarly situated, v. STATE OF GEORGIA, GEORGIA DEPARTMENT OF LABOR, and COMMISSIONER MARK BUTLER, in his official capacity, Defendants. In The Superior Court of Fulton County, Civil Action No. 2021CV350906.

A copy of the “Complaint For Declaratory And Injunctive Relief And Damages” (“Complaint”) is attached hereto as Exhibit “A.”

2.

In addition to filing the Complaint on June 16, 2021, Plaintiffs also filed a superior court case filing information form and summons for each Defendant. A copy of the case filing information form is attached as Exhibit “B. The summonses are attached as Exhibit “C.”

3.

On July 1, 2021, counsel for Plaintiffs asked undersigned counsel for Defendants, Deputy Attorney General Bryan K. Webb of the Office of the Georgia Attorney General, to waive service of the Complaint and summonses on behalf of Defendants. Plaintiffs' counsel's request was emailed to Defendants' counsel that day and included emailed copies of the Complaint, the superior court case filing information form, the summonses, the "Plaintiffs' Notice of Rule 30(B)(6) Deposition To Defendants State of Georgia And/Or Georgia Department of Labor," and an "Acknowledgement of Service and Waiver of Process" dated July 2, 2021. A copy of the emailed "Plaintiffs' Notice of Rule 30(B)(6) Deposition To Defendants State of Georgia And/Or Georgia Department of Labor" is attached as Exhibit "D."

4.

On July 2, 2021, Deputy Attorney General Bryan K. Webb signed Plaintiffs' "Acknowledgement of Service and Waiver of Process" on behalf of the Defendants and returned it to Plaintiffs' counsel. On July 6, 2021, Plaintiffs filed a "Notice of Filing Acknowledgment of Service and Waiver of Process," which is attached as an exhibit "Acknowledgement of Service and Waiver of Process" signed by Bryan

K. Webb. A stamped filed copy of Plaintiffs' "Notice of Filing Acknowledgment of Service and Waiver of Process" is attached as Exhibit "E."

5.

In the Complaint, Plaintiffs asserts that Defendant Georgia Department of Labor ("Defendant GDOL") has "fail[ed] to make prompt determination regarding unemployment benefits, fail[ed] to provide prompt appeal hearings of those determinations, and fail[ed] to make payments that are undeniably due." See Exhibit "A," p. 2.

6.

Additionally, the Complaint alleges:

As a result of the GDOL's failures, Plaintiffs, on behalf of themselves and all others similarly situated, file this Class Action Complaint for damages and declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 and Ga. Const. Art. 1 § 2 ¶ V to compel Defendants State of Georgia, the GDOL, and GDOL Commissioner Mark Butler in his official capacity to comply with their obligations under the Georgia Employment Security Law, O.C.G.A. § 34-8-1 *et seq.* and regulations promulgated in accordance with this law, to promptly process unemployment applications, make determinations of eligibility, pay the unemployment benefits for which they have been deemed eligible, and schedule requested administrative appeal hearings.

Id. at pp. 3-4.

7.

Furthermore, Plaintiffs allege that they bring their action under O.C.G.A. § 9-11-23 on behalf of themselves and three separate classes of similarly situated people: “The Prompt Determination Class,” “The Prompt Payment Class,” and “The Prompt Appeal Class.” *Id.* at pp. 24, 28, and 31. Plaintiffs assert the following claims under state and federal law:

Count One: Failure To Make Prompt Initial Determinations Under O.C.G.A. § 34-8-192(a) And Ga. Const. Art. VI § 2;

Count Three: Failure To Make Prompt Payments Under O.C.G.A. § 34-8-192(d) And Ga. Const. Art. VI § 2;

Count Five: Failure To Provide Prompt Appeals Under Ga. Comp. R. & Regs. 300-2-5-.02(2)(A) And Ga. Const. Art. VI § 2; and

Counts Two, Four, and Six: Violation Of Federal Due Process Constitutional Rights, Pursuant To 42 U.S.C. § 1983 And The Fourteenth Amendment Of The U.S. Constitution.

Id. at pp. 35, 37, 38, 40, 41, and 43.

8.

Plaintiffs are seeking various forms of relief, including but not limited to, trial by jury; class certification; declaratory and injunctive relief; actual, exemplary and punitive damages; and attorney’s fees and costs. *Id.* at pp. 44-45.

9.

Plaintiffs' Complaint presents a federal question over which this Court has original subject matter jurisdiction under the provision of 28 U.S.C. § 1331, and, accordingly, is one which may be removed to this Court pursuant to the provision of 28 U.S.C. § 1441(a).

10.

On July 30, 2021, Defendants filed their "Answer and Defenses" to Plaintiffs' Complaint in the Superior Court of Fulton County, State of Georgia. Defendants attach Exhibit "F," which is a true and accurate copy of their "Answer and Defenses" filed in the Superior Court of Fulton County, State of Georgia.

11.

Defendants also attach Exhibit "G," which is a true and accurate copy of the Superior Court Notice of Removal *to be* filed in the Superior Court of Fulton County, State of Georgia.

12.

Exhibits "A" through "G" constitute copies of all process, pleadings, and orders, which have been served upon or received by Defendants or which have been filed or will be filed by Plaintiffs or Defendants in the Superior Court of Fulton County, State of Georgia.

13.

Defendants consent to and submit the removal of this action within 30 days of the date their counsel acknowledged service of the Complaint and summonses on their behalf. Defendants also consent to this notice subject to and without waiving any defenses available to the Defendants under state or federal law.

WHEREFORE, Defendants move that this Notice of Removal be filed, that said action be removed to and proceed in the United States District Court for the Northern District of Georgia, Atlanta Division, so that no further proceedings may be had in said case in the Superior Court of Fulton County, State of Georgia.

Respectfully submitted, this 30th day of July, 2021,

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Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2021, I served the within and foregoing **DISTRICT COURT NOTICE OF REMOVAL** on the same day as electronically filing the same with the Court, by one or both of the following methods: by depositing a copy thereof with the United Parcel Service properly packaged or by depositing a copy in the U.S. Mail postage prepaid, properly addressed to the following persons:

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Emily C.R. Early
The Southern Poverty Law Center
P.O. Box 1287
Decatur, Georgia 30031-1287

This 30th day of July, 2021.

/s/Kimberly B. Lewis
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